

**MINUTES
of the
THIRD MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT COMMITTEE**

**September 2-3, 2014
Bataan Hall, University of New Mexico-Taos
Taos**

The third meeting of the Economic and Rural Development Committee (ERDC) for the 2014 interim was called to order by Representative Debbie A. Rodella, chair, on Tuesday, September 2, 2014, at 9:28 a.m. at Bataan Hall of the downtown campus of the University of New Mexico in Taos, New Mexico.

Present

Rep. Debbie A. Rodella, Chair
Sen. Howie C. Morales, Vice Chair
Rep. Ernest H. Chavez
Rep. Nora Espinoza
Sen. Phil A. Griego
Sen. Ron Griggs
Rep. Yvette Herrell
Sen. Richard C. Martinez
Sen. Michael Padilla

Advisory Members

Sen. Craig W. Brandt
Rep. Zachary J. Cook
Sen. Lee S. Cotter
Rep. Georgene Louis (9/3)
Rep. Patricia A. Lundstrom
Rep. James Roger Madalena (9/2)
Rep. William "Bill" R. Rehm
Rep. Patricia Roybal Caballero
Rep. Nick L. Salazar
Rep. James E. Smith (9/2)
Rep. Monica Youngblood

Guest Legislator

Rep. Roberto "Bobby" J. Gonzales

Absent

Sen. Jacob R. Candelaria
Rep. George Dodge, Jr.
Rep. Mary Helen Garcia
Rep. Dianne Miller Hamilton
Sen. Pat Woods

Rep. Sandra D. Jeff
Sen. Timothy M. Keller
Sen. Carroll H. Leavell
Sen. Mark Moores
Sen. Mary Kay Papen
Sen. John Pinto
Rep. Thomas C. Taylor

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Monica Ewing, Staff Attorney, Legislative Council Service (LCS)
Tessa Ryan, Staff Attorney, LCS
Carolyn Peck, Student Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts are in the meeting file.

Tuesday, September 2**Call to Order**

Representative Rodella called the meeting to order, and Dr. Kate O'Neill, executive director of the University of New Mexico-Taos, welcomed the committee.

Committee Working Groups

The committee divided into three working groups to discuss issues related to the Liquor Control Act, nonprofit organizations and telecommunications.

Nonprofit Organizations Working Group

Representative Roybal Caballero, Representative Herrell, Senator Morales and Senator Brandt, along with community members, participated in the working group. The group discussed the fact that nonprofit organizations are a big part of New Mexico's economy, paying \$468 million in wages and salary and providing 17,000 jobs across the state. Nonprofit organizations also provide services that are not otherwise provided by the public or private sectors. The economic downturn in the state has significantly affected nonprofit organizations, and it will be important to develop effective, efficient and innovative strategies to support the nonprofit sector, using innovative service models, partnerships and collaboration among nonprofit organizations.

The working group discussed a shared-services model in which nonprofit organizations may operate more efficiently and effectively by using well-trained professionals to manage operations, which allows program staff to focus on the organizations' missions. Nonprofit organizations could also share administrative staff with other organizations. Ideally, nonprofit organizations, through improved operations, would be able to provide services and reduce costs.

Susan Wilger, a representative of the nonprofit community in Silver City, stated that her organization participates in a shared-services model of operation by assisting three other organizations.

The working group decided that House Bill 311 from the 2014 legislative session would be used as a foundation for the coming session's legislative proposal, and Ms. Wilger agreed to

provide research and recommendations for the committee and the working group at the committee's next meeting.

Liquor Control Act Working Group

The Liquor Control Act working group met to discuss the work of the Liquor Control Act Task Force and to discuss possible legislative solutions to concerns regarding the Liquor Control Act. The following legislators and community members participated in the working group: Senator Martinez, Senator Griggs, Representative Rodella, Representative Espinoza, Senator Cotter, Senator Griego, Representative Cook, Justin Greene, Maurice Bernal, Debra Lopez, Ruben Baca, Mary Kay Root and John Thompson.

Ms. Root, director, Alcohol and Gaming Division, Regulation and Licensing Department, described the Liquor Control Act Task Force's progress during its all-day meeting on August 25, 2014. She stated that new community representatives from advocacy organizations attended the meeting and that the group discussed 10 of the items on which the task force originally voted on June 4, 2014.

Regarding the review of applications for liquor licenses by the state's local option districts (LODs), several working group members expressed a preference for LODs retaining that responsibility.

Ms. Root reviewed each of the 10 items that the task force discussed at its June 4, 2014 meeting, along with any subsequent action taken by the task force at its August 25, 2014 meeting.

1. "Amend Section 60-6B-12 by eliminating 60-6B-12A(4). This would allow licenses to transfer into LODs which are over quota." **

Ms. Root stated that the task force discussed the following concerns: whether LODs that vote against the transfer of liquor licenses into their districts could be overruled; community economic development based on alcohol consumption and sales; increased crime; and increasing the number of licenses in communities that already have a significant number of licenses. The task force did not reach a consensus on this issue, and the task force plans to re-vote on this item.

The working group members raised concerns about allowing liquor licenses to transfer out of small communities and about the difficulty small communities face in trying to bring licenses into their districts.

2. "Amend NMSA section 60-6B-4 D(1) to require 30 days' notice of a license hearing in newspapers and on the LOD's website. *Current law requires 15 days' notice in a newspaper of general circulation.*" **

Ms. Root stated that the task force, by consensus, arrived at a compromise that proposes to change the law to require 30 days' notice and publication of the notice only two times and to

allow for concurrent electronic publication of the notice on the LOD's web site when such a site is available and such publication is practicable.

3. "Expand SID's [the Special Investigations Division of the Department of Public Safety] scope of authority to allow SID to partner with community organizations." **

Ms. Root stated that the task force agreed that the opportunity for these partnerships is already authorized under the current law.

4. "Make changes to the Tasting Permit authorized by current law to be conducted on a licensed premise. The Tasting Permit would be subject to appropriately enhanced administrative penalties independent of the permit holder's primary license, including suspension and revocation of the permit. A third violation within the period of one year would operate as a citation against the primary license of the permit holder." **

Ms. Root stated that the task force reached consensus on this item and agreed that it supports related public safety concerns by limiting the number of liquor samples offered and by allowing only for sampling and not for the purchase or service of full beverages. A working group member noted concerns with liabilities associated with this type of license. Ms. Root added that the change to the law would necessitate changes to administrative rules related to tasting permits.

5. "Make changes to the Special Dispenser's Permits authorized by current law, allowing them to be issued on a county wide basis. The SDPs would be subject to appropriately enhanced administrative penalties independent of the permit holder's primary license, including suspension and revocation of the permit. A third violation within the period of one year would operate as a citation against the primary license of the permit holder." **

Ms. Root stated that this proposed change would affect what are commonly referred to as "picnic licenses", which provide for extending licenses to remote locations for a given day or event. She noted that community advocates expressed concerns because the permit would allow for the sale of full-sized drinks. The task force did not reach consensus on this item and will re-vote on the issue.

6. "Extend restaurant beer & wine license hours until midnight on Friday and Saturday nights. *Current law requires alcohol sales to cease at 11pm.*"**

Ms. Root stated that the task force did not reach a consensus on this item and will re-vote on it. Concerns were expressed at the task force's meeting that this proposed change would allow all restaurants to operate like bars. A suggested alternative would be to allow LODs to decide whether to adopt a rule allowing beer and wine service in restaurants after 11:00 p.m. A legislator requested information on how many of the beer and wine licenses would be affected by

this rule change. Another legislator noted that the 11:00 p.m. restriction on service by restaurants was a compromise that was reached when the law was originally passed.

7. "Add language to NMSA section 60-6B-4 F to allow LODs to disapprove the issuance or transfer of a license based on factors such as type of license, proximity to other licenses, occupancy load/square footage of licensed premises, pricing, service of food, etc. *Current law allows LODs to disapprove license applications under LCA guidelines, but case law obligates the AGD Director to disregard LOD disapprovals that are not supported by substantial evidence.*" **

Ms. Root noted that this item failed to pass when the task force voted on it in June and that the task force did not reach consensus at its August 25 meeting but would be re-voting on the issue. She said that there is no definition for "substantial evidence" in the law or related rules, and case law is used to determine when an LOD lacks substantial evidence for denying a license application. A legislator stated that the process would be more fair if applicants were able to appeal denied applications to the state. Another legislator opined that it could be helpful if the appeals process and substantial-evidence standard were more clearly defined in the law. Finally, a community member informed the working group that the community member believes that, sometimes, applications are denied for improper reasons, so an appeals process is important.

8. "Allow for home delivery of alcohol, making sure to check IDs at the time of delivery and include other specific language to deal with underage issues." **

Ms. Root stated that this item failed when it was originally voted on in June and that consensus was not reached at the task force's August 25 meeting. The task force did not agree to re-vote on the issue. This license could be considered a "rider" to an existing license. Deliveries to schools and deliveries before 12:00 noon and after 10:00 p.m., along with deliveries to persons on probation for driving while under the influence, would be prohibited. She added that an LOD would be able to determine whether it would allow liquor deliveries. She added that liquor delivery is already legal in 31 states. A community member noted that direct shipments of alcohol from out of state to residences in New Mexico are currently allowed under the law, and this proposal would help create equity for in-state merchants.

9. "Allow the rural dispenser liquor licenses to be able to transfer county-wide." **

Ms. Root noted that this item was approved by the task force's original vote, but community advocates wished to bring additional concerns to the group's attention, so it was reconsidered at the August 25 meeting. Consensus was not reached on any of the additional issues discussed, and the task force did not decide to re-vote on the issue.

10. "Create a new state license classified as a "tavern license" that allows for on-site consumption and package sales of craft beer, wine & spirits. This license would be non-transferable." **

Ms. Root stated that the task force did not reach consensus on this issue, which originally failed to pass when the task force voted on it in June. The task force considered a tiered system that would provide for specificity in issuing licenses to various kinds of taverns.

For the next meeting, drafted legislation will be presented to the committee, Ms. Root said. Representative Rodella made the point that there is still an opportunity for advocacy groups to participate if they wish.

**** See Appendix 2 to the Liquor Control Act Task Force Recommendations Ballot, presented to the ERDC at its July 7-9, 2014 meeting.**

Telecommunications Working Group

Representative Gonzales, Representative Smith, Senator Padilla and community member Leo Baca participated in the telecommunications working group. The discussion focused on the following topics: the size of telecommunications carriers in New Mexico; appropriate regulation to allow extended basic service across the state; and how to work with companies like CenturyLink to incentivize investment in New Mexico.

New Mexico Partnership Update

Steve Vierck, president and chief executive officer, New Mexico Partnership, presented updates on the partnership's activities. The partnership was created in 2003 to assist with the location and expansion of businesses in New Mexico. It has helped to recruit more than 70 companies to the state, including Fidelity Investments, Allstate Insurance Company, ReelzChannel, Union Pacific Railroad, Joule Unlimited, Inc., Sitel and PreCheck, Inc. To augment its efforts, the partnership has raised over \$200,000 of its \$250,000 private contribution goal. The partnership's board's three new members are Senator Clemente Sanchez from Grants, Rebecca Romero Rainey from Taos and Mike Espiritu from Alamogordo.

Mr. Vierck stated that the significant improvement of the tax climate in New Mexico has made the state more appealing to companies that are considering coming to New Mexico. He said that there are several very active employment sectors in the state, including manufacturing and logistics; back office operations, data centers and information technology; value-added agriculture and food processing; and aerospace.

In response to a committee member's question, Mr. Vierck stated that the partnership was established by the legislature. A committee member requested information about the 70 companies that the partnership recruited over the last 10 years, and Mr. Vierck stated that the information would be available in the next few months. In response to another member's question, Mr. Vierck stated that the partnership's board consists of seven Democrats, seven Republicans and one Independent.

Renewable Taos — Legislative Proposals

Jay Levine and John Gusdorf, board members, Renewable Taos, informed the committee about Renewable Taos, a program focused on providing access to renewable energy. A shared renewable-energy facility (SREF) is a facility that generates renewable energy and allows individuals or businesses to purchase subscriptions to it. These facilities may consist of solar panels, wind turbines, biomass-fueled generators and other renewable-electricity-generating equipment and combinations of any of these. A subscription to a SREF provides the owner with a percentage of the facility's monthly production, which is subtracted from the owner's monthly electric bill. Advantages of SREFs are that they make renewable energy available to those who cannot have equipment on their own property, or cannot afford to have it, and the facilities take advantage of economies of scale.

The first SREF in New Mexico is located behind the Taos Charter School in Taos, New Mexico. The project allows a customer or member of the Kit Carson Electric Cooperative (KCEC) to buy one or more panels, up to the number of panels that will supply a customer's or member's annual electricity use. The electricity produced by the panels is subtracted from the owner's bill every month, and the panels and other equipment will be maintained or replaced for a 50-year period.

The presenters emphasized that legislation is needed for SREFs because, currently, Tri-State Generation and Transmission Association, Inc., limits the amount of electricity that its member cooperatives may generate to 5% of their total sales, and that limit currently applies to SREFs. Also, investor-owned utilities (IOUs) are not required to allow SREFs in their service areas. At least one IOU has prevented the construction of a facility that had strong community support. The KCEC is very close to reaching its 5% limit, which means that Tri-State could prevent the construction of any additional large renewable-energy facilities, including construction of more SREFs.

Legislative proposals are to modify the Public Utility Act to allow for SREFs to be treated exactly like facilities on a host's site. Proposals would also require IOUs to allow SREFs generating up to two megawatts to be built in the IOUs' service areas, where feasible, and would allow cooperatives to permit SREFs on a voluntary basis. So far, Renewable Taos has collected more than 250 signatures supporting its legislative proposals.

A committee member asked whether IOUs and cooperatives are supportive of the proposals, and the presenters responded that the KCEC is supportive of the effort. Another committee member asked who profits from the sale of the individual solar panels, and the presenters stated that a collective headquartered in Colorado makes those profits.

In response to a committee member's question, the presenters stated that panels are maintained by a general electric company under a contract that is paid for using purchaser surcharges. Mr. Levine and Mr. Gusdorf also stated that they would be seeking endorsement from the Science, Technology and Telecommunications Committee for the proposed legislation.

New Mexico Film Office Update

Nick Maniatis, director, New Mexico Film Office, directed the committee to a film industry study that was recently completed. The study shows the industry's impact in New Mexico over five years. A committee member asked whether the film industry is growing in the state, and Mr. Maniatis replied that it has and that, currently, six television series are being filmed in the state.

A committee member expressed concern over the dwindling number of movie theaters in the state's smaller communities and asked what could be done about that. Mr. Maniatis agreed that it is an important issue, and he said that related conversations are ongoing within the film and entertainment industries, as well as within the state. Mr. Maniatis stated that his office could provide some information on the economic impact of the film industry in rural parts of the state. In response to a committee member's question about film incentives, Mr. Maniatis stated that he has not observed a reduction in film opportunities for New Mexico because of changes made to the state's film incentives.

New Mexico Voices for Children

James C. Jimenez, director, Policy, Research and Advocacy Integration, New Mexico Voices for Children, spoke about strengthening New Mexico's work force through a program called Career Pathways. Career Pathways is an integrated approach to developing a skilled work force from workers who currently have low levels of education and skills. New Mexico's current work force has lower education and skill training when compared with the work forces of other states, and New Mexico continues to struggle with job creation. Career Pathways focuses on educating currently working adults to create more middle-skill-level workers.

Kristen Krell, grant manager, Center for Learning Excellence, Santa Fe Community College (SFCC), discussed New Mexico's Integrated Basic Education and Skills Training (I-BEST) Program, which was implemented in 2011 at six community colleges, including SFCC. The program assists adults with transitioning to college-level courses. Classes in the program are co-taught by adult education instructors and career or technical instructors and include courses in nursing, electrical trades, wind energy and early childhood education. Preliminary data on 840 I-BEST students show that 51% of I-BEST students completed the program and earned credentials, and 32% are still participating in the program. Ms. Krell emphasized the importance of receiving additional funding for the I-BEST Program and stated that without additional funding, the program would be unable to continue beyond the next 18 months. She added that during the last legislative session, a bill that would have provided funding for I-BEST was passed by the legislature but vetoed by the governor.

A committee member asked whether the I-BEST Program targets the needs of growing industries, and Ms. Krell stated that it does. The presenters noted, in response to a committee member's question, that the program also receives funding from the private sector. Another committee member asked what role employers play in the Career Pathways program. Ms. Krell said that because the program is very new, it has not yet worked with employers to develop the

program; however, she said, working with employers will be a necessary part of I-BEST's success.

Ms. Krell stated in response to a committee member's concern that young mothers in rural communities are the types of workers and program participants that I-BEST aims to assist. The presenters noted that an online course-sharing program is being developed, which will allow colleges from around the state to share their certificate program courses. SFCC and Eastern New Mexico University in Roswell have begun participating in the program, and the potential exists to expand the program across the state. Eleven states have seen great success with online course-sharing programs.

New Mexico Farm-to-Table and Farm-to-School Programs

Pamela Roy, executive director, Farm to Table New Mexico, and Erin Ortigoza and Mari Ann McCann presented information on the farm-to-table and farm-to-school programs in the state. The presentation emphasized the importance of providing school-aged children with local produce and emphasized how the current farm programs can be supported. Ms. Roy discussed the number of New Mexico children who currently receive produce from local farms. Many school districts in the state now provide New Mexico produce to 60% of the children in New Mexico's schools. The program is working to identify additional farmland that can be used to produce fresh food for New Mexicans.

Ms. Ortigoza spoke about her experience as a farmer in Vallecitos, New Mexico. She said that she supports her family through farming, and she explained how she learned the farming skills she needed, found farm land and developed her family's farm over the years. She currently sells produce to the Santa Fe Public School District, the Santa Fe Farmers Market and the Food Depot.

Ms. McCann stated that during certain times of the year, farmers have an overabundance of produce, and it would be helpful to farmers to have a consistent market for produce to be sold to the schools and other public institutions. She said that current regulations prevent the schools from buying produce from farmers directly, and she emphasized the need for collaboration among the state, farmers, businesses, agencies and state and federal programs.

A committee member asked how many producers are involved in the farm-to-school program, and the presenters responded that there are 20 to 25 producers participating. Another member asked whether it costs more for school districts to buy produce from local growers rather than from outside sources. Ms. Roy stated that the cost difference varies by product. The presenters closed by emphasizing the water-saving methods they employ in farming, such as drip irrigation, in order to save the state's water resources.

Local Telecommunications Services Concerns

Leo Baca, a representative of CenturyLink, stated that through the federal Connect America Fund, CenturyLink will be expanding its service in the state by increasing download

speeds from four megabits per second (MBPS) to 10 MBPS and by increasing its service area in the state.

Snider Sloan, utilities director, Red River, and Linda Calhoun, mayor, Red River, spoke to the committee about telecommunications issues in Red River. They reported that internet service in the Red River area has been very slow and in some cases, depending on use and traffic, nonexistent. The problem has had negative effects on local and seasonal residents and on tourists visiting Red River. Businesses, they said, will have to close if they have no internet access, and hotel owners in Red River have reported that guests have checked out early because of the lack of service in the area. The losses incurred from this internet problem are having a significant impact on the local economy.

The committee voted to send a letter to the relevant service providers to request that they work with the town to find a solution to issues with internet access and to report to the ERDC when a resolution is reached.

Recess

The meeting recessed at 3:34 p.m.

Wednesday, September 3

Reconvene

The meeting was reconvened by Representative Rodella at 9:30 a.m.

Cumbres and Toltec Scenic Railroad; Local Economic Development

Billy Elbrock and Randy Randall, commissioners, Cumbres and Toltec Scenic Railroad, gave a presentation about recent developments with the Cumbres and Toltec Scenic Railroad. Mr. Elbrock provided a summary of the direct and secondary economic impacts of the railroad on the state. The direct economic impact of the railroad, he said, is over \$10 million, and the secondary economic impact of the railroad is over \$4 million. He added that the railroad has created 147 jobs. In 2013, 37,060 passengers rode the Cumbres and Toltec Scenic Railroad.

Mr. Randall stated that the railroad is unable to cover all of its operational costs and that it is seeking funding from the legislatures in Colorado and New Mexico. He also discussed the fact that the railroad is operated by a commission now, and it no longer uses a third-party operator.

A committee member noted that local retail shop owners and the Cumbres and Toltec Scenic Railroad organization have had some issues related to sales of gift items. The member said that the railroad recently opened a gift shop and that the local retailers were concerned that the railroad gift shop would diminish the local shops' sales. Shop owners and railroad representatives met to discuss their concerns, and the railroad agreed to remove all non-railroad logo items from the railroad gift shop by July 4, 2014. The presenters stated that the gift shop

was opened in an effort to increase the railroad's revenue because the railroad is required to generate revenue in order to receive state funding. Mr. Elbrock stated that the railroad and local merchants may hold another meeting in October, and Mr. Elbrock agreed to notify committee members when the meeting is scheduled.

Industrial Hemp and Economic Development

Jerry Fuentes, New Mexico Industrial Hemp Coalition, and Ruth Fahrbach, business owner, Taos Hemp, presented an overview of how industrial hemp could affect New Mexico's economy. Industrial hemp, they said, is a versatile plant that is used worldwide in approximately 25,000 different products, including food, animal feed, body care products, specialty oils, biofuels, automobile parts, plastics, paper, home construction and clothing. The Hemp Industries Association estimates that the total retail value of hemp products sold in 2012 was more than \$500 million. The retail value of hemp-based foods and supplements was approximately \$170 million in 2012. Industrial hemp grows in many climates and requires very little water, which has made it an appealing crop to grow. Industrial hemp nets approximately \$200 to \$400 per acre in Canada, compared to soy and corn, which net approximately \$160 per acre in the United States.

The 2014 federal farm bill legalized hemp production for research purposes in states that have authorizing legislation. So far, 10 states have begun industrial hemp pilot programs pursuant to that federal law. The New Mexico Industrial Hemp Coalition will seek support for legislation during the 2015 legislative session that will legalize the farming of industrial hemp in New Mexico. A professor from New Mexico State University stated that he is one of many scientists who are willing to examine and research hemp as a crop, as long as the proper legal framework is in place.

A committee member asked about the amount of tetrahydrocannabinol (THC) that is present in the industrial hemp plant. The presenters said that industrial hemp plants have very low levels of THC that are not comparable to the level of THC present in marijuana. Another member commented that land on which hemp is grown can be seized by the federal government if the crop is not grown in compliance with federal law.

The presenters emphasized the importance of developing the best hemp seed to be used for farming in the United States. Ms. Fahrbach stated that the National Farmers Union supports the removal of industrial hemp from the federal Controlled Substances Act. She noted that the coalition wishes to further the research and development of hemp as a potential industry in New Mexico and in the United States. A committee member asked whether surveys in the state have shown that public opinion in New Mexico supports industrial hemp production, and the presenters stated that their coalition continues to struggle with clarifying the difference between industrial hemp and marijuana for the public; however, they recently collected approximately 1,500 signatures in support of the legalization of industrial hemp.

Convention of States

Representative Herrell and David Walker made an informational presentation to the committee about the Convention of States. The Convention of States is based on Article 5 of the United States Constitution, which states that two-thirds of state legislatures call for a Convention of States to propose amendments to the United States Constitution. Some of the motivation for Mr. Walker's organization to support calling for a Convention of States are: increased spending and federal debt; federal regulations that have influenced poverty; the use of federal grants to influence states and state sovereignty; and actions of decision-makers in Washington, D.C.

Mr. Walker's organization plans to seek support to call for a convention based on a particular subject rather than on a particular proposed amendment. The convention would be called for the purpose of trying to limit the power and jurisdiction of the federal government. Once the convention has been successfully called, delegates from the states would be able to debate and consider how to prevent misuse of governmental power. Mr. Walker noted that another government shutdown could be very detrimental for the country, and the work of states at the Convention of States could produce solutions to prevent a shutdown. He said that Georgia, Florida and Alaska have introduced legislation supporting a Convention of States.

A committee member expressed concern over the language of the proposed legislation, particularly because Mr. Walker stated that the language of Convention of States legislation that passes in each state would have to pass without amendment in each state. Because amending bills is a significant part of the legislative process, the committee member noted that it could be difficult for states to pass the same legislation. Another committee member stated that there may be methods of addressing Mr. Walker's organization's concerns through elected federal officials.

Adjournment

There being no further business before the committee, the third meeting of the ERDC adjourned at 12:08 p.m.